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April 13, 2004

VIA FEDERAL EXPRESS

Mr. William H. Novak
Chief, Energy and Water Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

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TN REG. AUTHORITY

APR 14 2004

ENERGY & WATER DIVISION

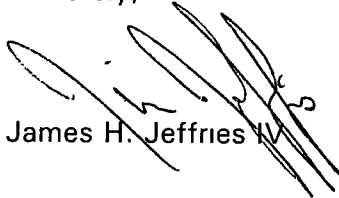
Re: Docket No. 04-00097 – Petition of Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc., for approval of Negotiated Franchise Agreement with the Metropolitan Government of the City of Nashville and Davidson County, Tennessee Pursuant to TCA § 65-4-107

Dear Mr. Novak:

I have enclosed an original and one copy of Nashville Gas Company's responses to your March 31, 2004 data requests in the above-captioned docket.

If you have any questions regarding the enclosed, please call.

Sincerely,



James H. Jeffries IV

JHJ/srl

Enclosure

c: Mr. David Carpenter
Mr. Dale Grimes

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 1

1. When was the original Franchise Agreement with the City of Nashville and Nashville Gas executed? What were the franchise payment terms and length of the agreement? Provide a copy of the original agreement along with all supplemental amendments or extensions.

RESPONSE: Please see copies of the original and superceding franchise agreements between the City of Nashville and the Company attached hereto.

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 2

2. When was the provision for the franchise fee to include gross receipts inside and outside of Davidson County first negotiated? What was the percentage breakdown of the revenue structure inside and outside of Davidson County during the first year?

RESPONSE: The five percent (5%) franchise fee term was incorporated into the first franchise agreement executed between the Company and the City of Nashville in 1911 and has been in effect continuously since that date. Since its inception, this percentage has been applied to all revenues generated by Nashville Gas Company within the state of Tennessee without regard to the physical location (or locations) of the customers generating such revenues.

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 3

3. What was the revenue structure and the resulting franchise fee percentage inside and outside of Davidson County for each year from 1973 – 2003?

RESPONSE: The franchise fee percentage inside Davidson County for the last eleven years is listed below. The Company does not possess franchise fee information for years prior to 1993.

<u>Year</u>	<u>%</u>
1993	85.61 %
1994	86.66%
1995	86.87%
1996	85.70%
1997	86.45%
1998	86.28%
1999	85.63%
2000	85.32%
2001	86.25%
2002	86.60%
2003	84.93%

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 4

4. What provisions are new or have changed in the pending franchise agreement?

RESPONSE: Please refer to the copy of Nashville Gas Company's current franchise agreement with the City of Nashville provided in response to question No. 1 of this data request and the proposed new franchise attached to Nashville Gas Company's Petition in this proceeding.

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 5

5. Is the Company aware of any other gas utility in Tennessee that has a franchise agreement calling for a franchise payment that includes gross receipts outside of the franchise jurisdiction? If so, provide a copy of such franchise agreements.

RESPONSE: Nashville Gas Company is not aware whether or not any other gas utility in Tennessee has a franchise agreement calling for a franchise payment that includes gross receipts outside of the franchise jurisdiction. Nashville Gas Company is aware, however, that the Tennessee Supreme Court in the case of Lewis v. Nashville Gas & Heating Co., 162 Tenn. 268, 40 S.W.2d 409 (1931) has ruled that a franchise payment calculated on the basis of revenues generated by customers outside the franchised territory is lawful in the context of a negotiated franchise agreement such as the proposed franchise that is the subject of this docket.

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 6

6. Refer to "BL 2003-36", Page 1, Section 2 contained within the Company's filing. How does the Company propose to recover the \$262,000 payment and the subsequent annual \$62,200 payments. Will these payments be included in the Franchise Fee billing rate for Davidson County customers or will it be included in the Company's base rates?

RESPONSE: Consistent with T.C.A. § 65-4-105(e), the Company intends to include these payments in the calculation of the franchise fee billing rates for customers located within Nashville and Davidson County.

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 7

7. Calculate the Company's average growth rate in gross receipts both inside and outside of Davidson County for the last five years that are used for the franchise tax calculation. Apply these average growth rates to the Company's 2003 gross receipts to compute the franchise tax rate to be applied beginning in 2004 and continuing through the end of the franchise agreement. Provide both a printed analysis and an electronic spreadsheet in Excel format. Provide support for all calculations and assumptions.

RESPONSE: The gross receipts both inside and outside Davidson County for the past five years are listed below. Nashville Gas Company is unable to calculate a meaningful "growth rate" in gross receipts, either historically or prospectively, because of the relative impact and volatility of gas costs on the Company's gross receipts.

<u>Year</u>	<u>Inside</u>	<u>Outside</u>	<u>Total</u>
1999	\$117,006,069	\$19,631,309	\$136,637,378
2000	\$148,606,714	\$25,561,080	\$174,167,794
2001	\$177,205,816	\$28,256,111	\$205,461,927
2002	\$154,914,815	\$23,979,008	\$178,893,823
2003	\$180,828,338	\$32,096,297	\$212,924,635

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 8

8. Refer to “BL 2003-36”, Section Nos. 2 and 9. Are the \$62,200 fees referred to one and the same or do they represent separate fees due to the city? Summarize the effects of Section No. 9.

RESPONSE: The \$62,200 in fees referenced in Section Nos. 2 and 9 of BL 2003-36 are one and the same. This fee was negotiated and agreed to based upon the original franchise fee agreed to with the City of Nashville in 1912 adjusted for inflation. Under Section 9, the Company will continue to pay the Metropolitan Government an annual franchise fee of \$62,200 adjusted for inflation at an assumed rate of 3.5% for each year of the Additional Periods provided for under the franchise agreement.

Nashville Gas Company
Docket No. 04-00097
First Data Request – TRA Staff
Item 9

9. Calculate the consumption, revenue, and resulting franchise tax for the Company's average residential customer in 2003. Provide support for all calculations and assumptions. Provide both a printed analysis and an electronic spreadsheet in Excel format.

RESPONSE:

Per 2003 Rate Case

Bills	1,627,088
Winter Usage	8,221,475
Summer Usage	2,364,700

Average Customers	135,591
Average Winter DT's	60.63
Average Summer DT's	17.44

Current Rates

Facilities	135
Winter Per DT	9.4309
Summer Per DT	8.9309

Total Average Annual Bill	862.59
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Current Franchise Fee Rate	6.16%
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Total Franchise Fee	\$53.14
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ORDINANCE NO. 155

FRANCHISE OF NASHVILLE GAS AND HEATING COMPANY

SECTION 1. BE IT ENACTED BY THE MAYOR AND CITY COUNCIL OF NASHVILLE, That the consent of the Mayor and City Council of Nashville is hereby given to the acquisition, by purchase, lease, or other lawful contract, by the Nashville Gas & Heating Company, of all or any part of the property of the Nashville Gas Company; and permission and consent are hereby given to the alienation, transfer and disposition by the Nashville Gas Company, by sale, lease, or other lawful contracts, of its property, or any part thereof, to the Nashville Gas & Heating Company; and permission and consent are hereby given to the Nashville Gas Company to surrender to the Mayor and City Council of Nashville the grant or license by said Mayor and City Council to said Nashville Gas Company, approved February 20, 1900, and ratified at a special election of the qualified voters of the City of Nashville, held April 19, 1900.

SEC. 2. That the Nashville Gas & Heating Company be, and is, hereby granted a license for forty (40) years from and after the date that this ordinance shall be approved by the people, as provided by law, and it is hereby authorized to construct, acquire, maintain and operate gas works in the City of Nashville, County of Davidson, State of Tennessee, and to manufacture, sell and supply gas in said city, and to buy, use and maintain pipes and extend existing conduits and mains, with all the necessary and proper attachments, connections and appurtenances below the surface of the streets, avenues, sidewalks, alleys and public grounds, and on the bridges and viaducts of the city of Nashville, as the boundaries thereof are now and may hereafter be, for the

supply and distribution of gas, and for the same purpose to erect and maintain therein all necessary posts for lamps and lanterns, and to make connections for customers with such pipes and mains, for the term of forty years aforesaid; PROVIDED, that all pavements, macadam and sidewalks shall be taken up, and all excavations in said streets, avenues, sidewalks, alleys and public grounds shall be under the supervision of the Board of Public Works; PROVIDED, FURTHER, that said pavements, macadam and excavations shall be replaced and repaired with like material, and left in as good condition as before. Where said company tears up a macadam street for laying and extending pipes for services, or for repairing the same, they shall in refilling such excavations made, thoroughly tamp each six-inch layer of material used, but the top layer shall, in every instance, be new, clean macadam, filled to a depth of not less than ten inches. If, in restoring a brick or granite street, any of the material is damaged, said company shall furnish new brick or granite, as the case may be, in order to restore said street to a condition equal to that before disturbed. In every instance shall this work be done to the satisfaction of the Board of Public Works. Should said Nashville Gas & Heating Company refuse or fail to replace said pavements, macadam, sidewalks and excavations within a reasonable time, which shall be determined by the Board of Public Works, then the same may be replaced and restored by the City, under the direction of the Board of Public Works, at the cost and expense of said grantee. Before any excavations are made by said Nashville Gas & Heating Company, at any time for extension in any street or alley, for any of the purposes named in this ordinance, it shall be the duty of said Company to apply for a permit therefor from the proper officers of said city, which permit shall state the particular street or alley where said work is to be done, and the length of time allowed in which said work shall be completed.

SEC. 3. That said company shall not open or incumber at any one time more of any street, avenue; sidewalk, alley or public highway or place, than may be necessary in order to enable it to proceed with advantage in laying and repairing of mains and pipes, nor shall it permit any such street, avenue, alley or public highway so opened or incumbered by it to remain open and incumbered for a longer period of time than shall be necessary, which time shall be determined by the Board of Public Works. In all cases where any street, alleys, sidewalk or public place shall be incumbered or excavated by said company, they shall take all precaution for the protection of the public usual under such circumstances, and such as may now or hereafter be required by the general ordinances of the city, and shall hold the city harmless for any damages to persons or property caused by the fault or neglect of said Nashville Gas & Heating Company. Whenever the city shall grade or regrade a street, alley, or public highway along or across which said company has constructed any pipes or mains, it shall be the duty of said company, at its own expense, to change said pipes or mains so as to conform to the streets, alleys or public highways to be graded or regraded on an order therefor from the proper officers of said city.

SEC. 4. No person, company or corporation shall be permitted to make any connections with any of the distributing pipes or service pipes of said company unless duly authorized by it.

SEC. 5. In case of making repairs or constructing new work the said company shall have the right to shut off the gas, and keep the same shut off for such time as may be necessary to accomplish the purpose.

SEC. 6. Said company shall have the right to shut off the gas from any consumer who may be in arrears for a longer period than fifteen days.

SEC. 7. In constructing, repairing and operating said works, said company shall use every reasonable and proper precaution to avoid damage and injury to persons and property, and shall, at all times and in all places, hold and save harmless the said city from all and every such damage, injury, loss or expense caused or occasioned by reason of any act or failure to act of said company, in the construction, repairing or operation of said gas works or any part thereof, or in paving or repaving of any streets by reason of any acts done by said company.

SEC. 8. Under the permission and authority hereby granted, said company shall manufacture, furnish and sell to the City of Nashville, and to the citizens thereof, a good commercial gas, suitable for illuminating purposes, and for fuel purposes, and shall establish and maintain such manufacturing plant and conduits, mains and pipes as are necessary to provide an adequate supply of gas to all of its consumers, including the City of Nashville, which, shall, burning five cubic feet per hour, in any ordinary lava tip open flame burner in common use, be capable of producing a light equal to sixteen standard sperm candles, as near as practicable, but never less than fifteen candle power, and suitable for illuminating purpose, and give an average heating value of 600, and never less than 550 British thermal units per cubic foot of gas, suitable for heating and commercial purposes. The right, at any time, to test the candle power of gas to be furnished by said company, or the accuracy of the meters used in measuring the same, is reserved to the Mayor and City Council on complaint of any consumer that the gas furnished him is not up to the standard, then the Mayor shall be compelled to have proper test made, the expense of which is to be paid by the Nashville Gas & Heating Company, the said Nashville Gas & Heating Company shall, within a reasonable time after notification by the proper city authorities, correct any deficiency in the candle or heating power of the gas

or the accuracy of any meter used, and an intentional failure on the part of said company, within a reasonable time after notification by the proper city authorities, to correct any deficiency in the candle power or heating power of the gas, or the accuracy of any meter used, shall be a sufficient cause for the revocation of this license by the Mayor and City Council, unless explanation satisfactory to the Mayor and City Council shall be made. The rate to be charged by said company for gas may equal, but shall not exceed, \$1.10 per 1,000 cubic feet, with 10 cents per 1,000 cubic feet discount if bills are paid in the first five business days next following the date bills are rendered. Said Company may make a minimum charge for gas of 15 cents to each consumer or person having a meter of said company installed in any month in which said consumer or person having a meter of said company installed shall use less than 150 cubic feet of gas. No charge shall be made by said company for the rent of any meter.

SEC. 9. At stated intervals or period of ten years, commencing ten years after the date of the acceptance of this ordinance by the Nashville Gas & Heating Company, as hereinafter provided in Section 10 of this ordinance, the price at which gas shall be sold by said Nashville Gas & Heating Company shall be subject to regulation or adjustment between said Nashville Gas & Heating Company, and said Mayor and City Council of Nashville, by arbitration, and the price charged for gas during the next ensuing ten years, after each arbitration, any equal, but shall not exceed, the rate fixed by the arbitrators, which rate shall be determined by considering all conditions entering into the cost of producing and distributing gas, and the value and sale of by-products, by said Nashville Gas & Heating Company, and the price to be so periodically fixed by the arbitrators shall bear the same relation or proportion to the then cost of materials, production and distribution of gas, and the value and sale of

by-products as shall obtain with said Nashville Gas & Heating Company averaged over a period of not less than two years of the ten years preceding the period of arbitration; PROVIDED, that at no time shall the price charged for gas be greater than \$1.10 per 1,000 cubic feet, subject to the discount hereinbefore provided in Section 8 of this ordinance. The arbitration herein provided for shall be by arbitrators appointed, one by the Mayor and City Council of Nashville, and one by the Nashville Gas & Heating Company, and in the event of disagreement between them, the two so chosen shall select a third disinterested person, who shall, together with said two, consider and decide the matter, and the decision of said arbitrators, or a majority of same, shall be conclusive and binding upon said Nashville Gas & Heating Company and said Mayor and City Council of Nashville.

SEC. 10. That within ten days after the approval of this ordinance said company shall, by its legally constituted representatives, file with the Recorder of the city a written acceptance of this grant, with all of its terms, limitations and requirements, and a failure so to accept the same within said time shall of itself work a revocation of this grant.

SEC. 11. That in event of the acceptance of this ordinance by the Nashville Gas & Heating Company, as herein before provided in Section 10, then this ordinance shall be submitted to the qualified voters of the City of Nashville at a special election to be held on the fifteenth day of April, 1912, subject to the provisions of the law governing such elections. All those voters favoring the ordinance shall vote "for the Nashville Gas & Heating Company ordinance", and those voting against said ordinance shall vote "against the proposed Nashville Gas & Heating Company ordinance," and the returns of said election shall be canvassed and declared, as now provided by law.

SEC. 12. That in event a majority of the qualified voters of the city voting on the proposition herein directed to be submitted shall vote for the adoption of this ordinance; then the Nashville Gas & Heating Company, in consideration of the rights and licenses hereby granted to said company, shall pay to the Mayor and City Council of Nashville the full sum of one hundred thousand (\$100,000) dollars, and said payment shall be made by said Nashville Gas & Heating Company within ten days after said election, and it shall not exercise any of the licenses and privileges hereby granted until said payment shall have been made. PROVIDED, that nothing in this ordinance shall be construed as exempting said Nashville Gas & Heating Company from the payment of any taxes lawfully imposed by the Mayor and City Council of Nashville.

SEC. 13. That in event a majority of the qualified voters of the city, voting on the proposition herein directed to be submitted, shall vote for the adoption of this ordinance, and said Nashville Gas & Heating Company shall make the payment required to be made as hereinbefore provided in Section 12, then the Board of Public Works is hereby authorized and directed to carry out the terms and provisions hereof.

SEC. 14. That in consideration of the rights and licenses hereby granted to the Nashville Gas & Heating Company, and in addition to the payment required to be made as hereinbefore provided in Section 12, said company shall pay to the Mayor and City Council of Nashville five (5) per centum of its gross receipts from the sale of gas, and also from the sale, at a fair market value, of by-products, unless and until said Mayor and City Council of Nashville--and the voters of the city at an election held for such purpose, according to the provisions of the law, shall ratify such, grant a license or right to any other company to engage in the same or a similar business to that of the Nashville Gas &

Heating Company, and such other companies shall actually engage in business or the city itself engage in such business, at which time all payments provided for in this section shall cease; PROVIDED, that nothing herein contained shall be construed to prevent the city from granting a license or right to a natural gas company. Said sum is to be paid half-yearly, and said Nashville Gas & Heating Company shall furnish to the proper representative of the city a sworn statement of its proper officer, showing the production of gas, coke, tar and ammonia, and other facts connected with the production, upon which said payment is made; and said Mayor and City Council of Nashville shall have the right, through its proper officers, or agents, to examine and verify such of the records, books and accounts of the Nashville Gas & Heating Company as may be necessary to enable said city to obtain the true amount of said gross receipts.

SEC. 15. At any time thirty years after the approval of this grant by the Mayor and City Council of Nashville, upon giving twelve months' notice to said Nashville Gas & Heating Company, its successors and assigns, of its intention to do so, may elect to purchase the plant constructed or acquired by said company, embracing every appliance thereof, for the manufacture and furnishing of gas for lighting and heating. And it shall have the right to do so at a fair valuation, to be arrived at by arbitration, each party hereto choosing representatives, and these a third disinterested party. But in arriving at the valuation of said plant, including all appliances as aforesaid, it is expressly contracted and agreed by said Nashville Gas & Heating Company, that the sale shall be taken and construed as a voluntary surrender by said company, its successors and assigns, of the grant or franchise hereby given, and the same shall not be valued, but the arbitrators shall value the plant and the appliances aforesaid as a plant in actual operation, the right to immediate operation of which will

vest upon the completion of the sale, exclusively in the Mayor and City Council of Nashville, the property to be valued at its actual value at the time of arbitration.

SEC. 16. Said Nashville Gas & Heating Company, intending the substantial betterment and extension of the plant of the Nashville Gas Company, in the event of the acquisition of same by said Nashville Gas & Heating Company, under the terms and provisions of this grant, agrees to expend within five years next succeeding the acceptance hereof by said Nashville Gas & Heating Company, for such betterment and extension, a sum not less than five hundred thousand (\$500,000) dollars; and said company further agrees that the expenditure by it of such sum for such purpose shall be a part of the consideration of this grant made by this ordinance.

SEC. 17. No convict labor shall be used by said company or any person, company or corporation working for it in any part of its work, nor shall said company use any material that is the product of convict labor.

SEC. 18. That, hereafter, whenever the city paves with granite, brick, asphalt or other permanent material, any street in the city in which the company has its mains, it shall be the duty of said company, before said work is done, to run in service pipes from its main pipes to the sidewalk of each and every lot, no matter whether such lot is vacant or improved.

SEC. 19. That nothing in this ordinance shall be construed as a waiver to the city's rights, at any time, to erect and operate a gas plant.

SEC. 20. A failure on the part of said company to comply with the provisions of this ordinance, or failure to comply with an order or request of the Board of Public Works issued thereunder,

shall subject said company to a fine of not less than \$10 nor more than \$50 for each offense; PROVIDED, HOWEVER, that this section shall not be construed to conflict with any penalty otherwise provided herein.

SEC. 21. That this ordinance shall take effect from and after its passage, the welfare of the city requiring it.

Approved October 10, 1911.

H. E. Howse, Mayor

TO THE MAYOR AND CITY COUNCIL
OF NASHVILLE, TENNESSEE:

The Nashville Gas & Heating Company hereby accepts the grant made to it by Ordinance No. 155 of the Mayor and City Council of Nashville, passed October 9, 1911, and approved by the Mayor October 10, 1911, with all of its terms, limitations and requirements.

Done in pursuance of a resolution duly passed by the Board of Directors of the Nashville Gas & Heating Company October 10, 1911.

This the 10th day of October, 1911.

NASHVILLE GAS & HEATING COMPANY,

By J. H. Fall, President

C. H. Brandon, Secretary.

Filed in the office of the Recorder of the Mayor and City Council of Nashville, Tennessee, this October 10th, 1911.

W. L. Murrey, City Recorder.

ORDINANCE NO. 50-341
OF MAYOR AND CITY COUNCIL OF NASHVILLE

AN ORDINANCE EXTENDING THE LICENSE AND FRANCHISE
OF NASHVILLE GAS AND HEATING COMPANY, A TENNESSEE
CORPORATION, FOR AN ADDITIONAL PERIOD OF THIRTY
YEARS FROM THE EXPIRATION OF ITS EXISTING LICENSE
OR FRANCHISE.

BE IT ENACTED BY THE MAYOR AND CITY COUNCIL OF NASHVILLE:

SEC. 1. That the existing license and franchise of Nashville Gas and Heating Company, a Tennessee corporation, granted by Ordinance No. 155 of Mayor and City Council of Nashville, passed by the Council on October 9, 1911, approved by the Mayor October 10, 1911, and accepted by the Company on October 10, 1911, and approved by the qualified voters on April 15, 1912, is hereby amended so as to expressly include natural, manufactured or mixed gas and, as so amended, is hereby extended for a period of thirty years from and after the termination of such existing license and franchise, subject to the continuing obligations and the continuing terms and conditions of said franchise, as set out in said Ordinance No. 155, which shall remain in full force and effect throughout the period of said thirty-year extension. The provisions of Section 14 of said Ordinance No. 155 requiring the payment of five percentum of gross revenues from the sale of gas, and also from the sale, at a fair market value, of by-products, is hereby made expressly applicable to natural, manufactured or mixed gas.

SEC. 2. That said license and franchise, as extended, shall at all times be subject to the terms, conditions, provisions and obligations set out and contained in Article 54 of the Charter of the City of Nashville, to-wit, Chapter 246 of

the Private Acts passed by the 75th General Assembly of the State of Tennessee in the year 1947.

SEC. 3. That within ten days after the final approval of this ordinance said Nashville Gas and Heating Company shall, by its legally constituted representatives, file with the City Clerk a written acceptance of this extension grant, with all of its terms, limitations and requirements, and a failure so to accept the same within said time shall of itself work a revocation of this extension grant.

SEC. 4. That in the event of the acceptance of this ordinance by the Nashville Gas and Heating Company, as hereinbefore provided in Section 3 and the payment of the election expenses to the City of Nashville as provided in Article 54 of the Charter, then this ordinance shall be submitted to the qualified voters of the City of Nashville at a special election to be held on the first Tuesday occurring more than sixty days after the date of the unconditional acceptance of said extended franchise by the Nashville Gas and Heating Company, such special election to be held in accordance with the provisions of the law governing such elections. The ballot at such special election shall contain a brief statement of the purposes of this ordinance, and shall submit to the voters the following question:

Do you approve ordinance No. 50-341
of the Mayor and City Council of
Nashville enacted February 9, 1950,
extending the license and franchise
of the Nashville Gas and Heating Company?

Yes ☐

No ☐

The returns of such election shall be canvassed and declared as provided by law. This ordinance shall become effective only in the event it is approved by three-fifths of the electors

voting thereon in such election, and if so approved such license and franchise shall be extended as hereinabove provided without requiring the payment of any consideration therefor other than the annual payments as hereinabove expressly set out.

This ordinance shall be published in full, one publication to appear in the Nashville Tennessean and one publication in the Nashville Banner. Said publication shall be made not more than seven days nor less than three days before said election.

SEC. 5. Be it Further Enacted that this Ordinance take effect from and after its passage, the welfare of the City requiring it.

Introduced by:

Walter Morgan	(Signed)
Joe W. Sadler	"
W. M. Ayers	"

I hereby certify that this is a true and correct copy of the Original Ordinance No. 50-341 of the City Council of the City of Nashville, Tennessee.

Witness my hand and the Seal of the City of Nashville, Tennessee, this 28th day of February, 1950.

/s/ W. M. Carr, Jr.
City Clerk

SUBSTITUTE BILL NO. 74-861

AN ORDINANCE AMENDING AND EXTENDING THE
LICENSE AND FRANCHISE OF NASHVILLE GAS
COMPANY (FORMERLY NASHVILLE GAS AND
HEATING COMPANY), A TENNESSEE CORPORATION,
FOR AN ADDITIONAL PERIOD OF THIRTY YEARS.

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN
GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

SECTION 1. That the existing license and franchise of Nashville Gas Company (formerly Nashville Gas and Heating Company, the latter's name having been changed to Nashville Gas Company by Charter Amendment) a Tennessee corporation, granted by Ordinance No. 155 of the Mayor and City Council of the former City of Nashville which became effective on the 15th day of April, 1912 and which was amended and extended by Ordinance No. 50-341, as amended, of the former City of Nashville, adopted by the City Council on February 9, 1950, approved by the Mayor on February 10, 1950, accepted by the Nashville Gas and Heating Company on February 15, 1950 and approved by the requisite number of the qualified voters in referendum on April 18, 1950 as recorded by Resolution No. 50-1189 of the Council of the former City of Nashville adopted May 2, 1950, is hereby amended to authorize the Nashville Gas Company to do, within the General Services District of the said Metropolitan Government, all things which it is permitted to do by its said license and franchise granted by Ordinance No. 151 of the former City of Nashville as amended and extended by Ordinance No. 50-341 of the former City of Nashville; and the said license and franchise granted by the said Ordinance No. 155 as amended and extended by Ordinance No. 50-311 is hereby further amended by deleting the words "City of Nashville" wherever it appears in said Ordinance No. 155, as amended and extended by Ordinance

No. 50-341 of the former City of Nashville, and substituting in lieu thereof the words "Metropolitan Government of Nashville and Davidson County". The said Ordinance No. 155 of the former City of Nashville as amended and extended by Ordinance No. 50-341 of said city is further amended by striking therefrom the word "City" wherever it appears in such Ordinance as amended and extended and substituting in lieu thereof the words "Metropolitan Government". The said Ordinance No. 155 of the former City of Nashville, as amended and extended by Ordinance No. 50-341 of the said city is hereby amended by deleting therefrom the words "Board of Public Works" wherever they appear in such Ordinance as amended and extended and by substituting in lieu thereof the words "Metropolitan Government of Nashville and Davidson County".

SECTION 2. That the said Ordinance No. 155 of the former City of Nashville as amended and extended by Ordinance No. 50-341 is hereby amended by deleting therefrom the words "Nashville Gas and Heating Company" wherever they may appear and substituting therefor the words "Nashville Gas Company"; and by deleting therefrom the word "recorder" wherever it may appear in said Ordinance, as amended and extended, and substituting in lieu thereof the words "Metropolitan Clerk".

SECTION 3. That Ordinance No. 50-341 of the former City of Nashville is hereby amended by deleting Section 4 thereof in its entirety.

SECTION 4. That Ordinance No. 155 of the former City of Nashville as amended and extended by Ordinance No. 50-341 of such city is hereby amended by striking therefrom the last three (3) sentences of Section 8 thereof and deleting therefrom Section 9 in its entirety.

SECTION 5. That the license and franchise granted Nashville Gas Company by Ordinance No. 155 of the former City of Nashville as amended

and extended by Ordinance No. 50-341 of the said former City of Nashville and as amended herein is hereby renewed and extended for a period of thirty years from and after the date of the approval of this Ordinance by the electors of the Metropolitan Government as provided in Section 17.02 of the Charter of the Metropolitan Government of Nashville and Davidson County, subject to the continuing obligations and continuing terms and conditions of the said franchise as set out in Ordinance No. 155 as amended by Ordinance No. 50-341 of the former City of Nashville and as amended by this Ordinance, which shall remain in full force and effect throughout the period of the said thirty year renewal and extension.

SECTION 6. That the said license and franchise, as amended, renewed and extended shall at all times be subject to the terms, conditions and obligations set out and contained in Article 17 of the Charter of the Metropolitan Government of Nashville and Davidson County.

SECTION 7. That within ten days after the final approval of this Ordinance said Nashville Gas Company shall by its legally constituted representatives, file with the Metropolitan Clerk a written acceptance of this extension grant, with all of its terms, limitations and requirements, and a failure so to accept the same within said time shall, of itself, work a revocation of this renewal and extension grant.

SECTION 8. That in the event of the acceptance of this Ordinance by the Nashville Gas Company, as hereinbefore provided in Section 7 and the payment to the Metropolitan Election Commission of an equitable portion of the expenses of the primary election, which portion of such expenses of the primary election shall be determined by the Metropolitan Election Commission, then this Ordinance shall be submitted to the qualified voters of the Metropolitan Government at an election to be held on May 2, 1974 provided such primary election occurs more than sixty days after the date of the unconditional acceptance of said extended franchise by the Nashville Gas Company, such

election is to be held at the same time and in connection with the primary election on May 2, 1974 in accordance with the provisions of the law governing such elections and the provisions of Article 17 of the Metropolitan Charter. The ballot at such election shall contain a brief statement of the purposes of this Ordinance and shall submit to the voters the following question:

Do you approve Ordinance No. 74-861
of the Council of the Metropolitan Government
of Nashville and Davidson County amending and
extending the license and franchise of the
Nashville Gas Company?

Yes ☐


No ☐

The returns of such election shall be canvassed and declared as provided by law. This Ordinance shall become effective only in the event it is approved by three-fifths of the electors voting thereon in such election, and if so approved such license and franchise shall be extended as hereinabove provided without requiring the payment of any consideration therefor other than the annual payments as expressly set out in Ordinance No. 155 of the former City of Nashville, as amended by Ordinance No. 50-341 of said city.

This Ordinance shall be published in full, one publication to appear in the Nashville Tennessean and one publication in the Nashville Banner. Said publication shall be made not more than seven days nor less than three days before said election.

SECTION 9. This Ordinance shall take effect from and after its passage, the welfare of the Metropolitan Government requiring it.

Introduced by:



THE METROPOLITAN GOVERNMENT OF NASHVILLE AND
DAVIDSON COUNTY
c/o THE METROPOLITAN CLERK
METROPOLITAN COURTHOUSE
NASHVILLE, TENNESSEE

As provided in Section 17.02 of the Charter of The
Metropolitan Government of Nashville and Davidson County, and in
accordance with the requirements of Ordinance No. 74-861 passed on
the third and final reading by The Metropolitan County Council of The
Metropolitan Government of Nashville and Davidson County on Tuesday,
February 19, 1974, and approved by the Metropolitan County Mayor on
February 28, 1974, Nashville Gas Company unconditionally accepts the
extension grant of its license and franchise with all the terms, limitations
and requirements set out in the said Ordinance No. 74-861, this 28th
day of February, 1974.

NASHVILLE GAS COMPANY

BY: John C. Bolinger, Jr.
John C. Bolinger, Jr., President

Attest:

W. Crew Anderson
W. Crew Anderson, Secretary-Treasurer

AMENDMENT NO. 1 TO SUBSTITUTE BILL NO. 74-861

Substitute Bill No. 74-861 is hereby amended by adding at the end of Section 1 thereof the following words and phrases:

Ordinance No. 155 of the former City of Nashville, as amended and extended by Ordinance No. 50-341 of such city, is hereby further amended by adding at the end of Section 2 thereof the following:

"Regardless of anything herein to the contrary, after the Nashville Gas Company has made any excavation in any street, alley, sidewalk or other public way owned by or under the control of the Metropolitan Government, the Nashville Gas Company shall replace and repair such excavated places in compliance with the specifications of the then current regulations of the Director of Public Works of the Metropolitan Government applicable to all persons or corporations, including, but not limited to, contractors and privately and publicly owned utility companies or agencies."

ADOPTED: 7 11 1974

Submitted by:


Member of the Council